

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MIGUEL A. SANTIAGO,

Civil Action No.:

Plaintiff,

-against-

NOTICE OF REMOVAL

BRIAN D. BUTZ AND VERIHA TRUCKING, INC.,

Defendants,

-----X

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Defendants-Petitioners BRIAN D. BUTZ AND VERIHA TRUCKING, INC., files this notice to remove the foregoing case to the United States District Court for the Southern District of New York, and respectfully shows this Court:

1. A civil action was commenced in the Supreme Court of Bronx County, State of New York, in which the above-named individual, MIGUEL A. SANTIAGO is the plaintiff and the petitioners are defendants BRIAN D. BUTZ AND VERIHA TRUCKING, INC. The action is entitled MIGUEL A. SANTIAGO v. BRIAN D. BUTZ AND VERIHA TRUCKING, INC., and bears Index Number 807943/2022E.

2. This is a civil action seeking damages arising out of a motor vehicle accident allegedly caused by the defendants' negligence. The plaintiff alleges personal injuries.

3. This action involves a controversy between a citizen of the State of New York, citizen of the State of Pennsylvania and a corporation of the State of Wisconsin in that: (a) the plaintiff MIGUEL A. SANTIAGO is now, and was at the time said action was commenced, a resident of the State of New York, (b) petitioner BRIAN D. BUTZ is now, and was at the time

said action was commenced, a resident of the State of Pennsylvania and (c) petitioner VERIHA TRUCKING, INC. is at the time of the accident and remains a corporation organized under the laws of the State of Wisconsin.

4. The above action was commenced against defendants-petitioners on or after May 31, 2022 in New York Supreme Court, County of Bronx. A copy of the Complaint is annexed hereto as Exhibit "A". Issue was joined by service of a Verified Answer on behalf of the defendants on or about June 14, 2022. A copy of the Verified Answer is annexed hereto as Exhibit "B".

5. Defendants-Petitioners served plaintiff with a Demand for Damages Pursuant to CPLR 3017(c) on or about June 14, 2022. A copy of this demand is annexed hereto as Exhibit "C."

6. On or about June 23, 2022, plaintiff e-filed a response dated June 23, 2022 to the Demand for Damages alleging Five (\$5,000,000) Million Dollars in damages. A copy of plaintiff's response to the Demand for Damages is annexed hereto as Exhibit "D."

7. Under 28 U.S.C. § 1446(b), the 30-day period for seeking removal only begins when the defendants receive "an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." DeMarco v. MGM Transp., 2006 U.S. Dist. LEXIS 10121, (E.D.N.Y. February 24, 2006).

8. Said action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is complete diversity of citizenship between the plaintiff and the defendants.

9. Defendants BRIAN D. BUTZ AND VERIHA TRUCKING, INC. are the petitioners for the removal of this case to this Court.

9. This notice is filed within thirty (30) days after receipt by petitioners BRIAN D. BUTZ AND VERIHA TRUCKING, INC. of the plaintiff's response to the demand for damages which claimed damages of Five (\$5,000,000) Million Dollars.

10. Written filing of this notice will be given to the plaintiff promptly after the filing of this motion, as is required by law.

11. A true and correct copy of this notice will be filed with the Clerk of the Supreme Court of Bronx County, State of New York promptly after the filing of this notice, as is required by law.

12. Attached to this notice, and by reference made a part hereof, are true and correct copies of all process, pleadings and orders filed in the aforesaid action.

13. By filing this Notice of Removal, petitioners do not waive any defense which may be available to them, specifically including, but not limited to, the right to contest in personam jurisdiction over the petitioner, improper service of process upon the petitioner, and the absence of venue in this Court or in the court from which the action has been removed.

WHEREFORE, petitioners pray that this action proceed in this Court as an action properly removed thereto.

Dated: New York, New York
July 19, 2022

Yours, etc.

LEWIS, BRISBOIS, BISGAARD & SMITH, LLP

Adam Schwartzstein

By: _____
Adam Schwartzstein
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TO:

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